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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,572	07/08/2003	Robert R. Hunter	TREND-00101	8982
34209	7590	12/13/2004	EXAMINER	
LAW OFFICE OF DEREK J. WESTBERG 2 NORTH SECOND STREET, SUITE 1390 SAN JOSE, CA 95113			TSAI, CAROL S W	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,572

Applicant(s)

HUNTER, ROBERT R.

Examiner

Carol S Tsai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 60-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-68 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/2/03, 11/3/03, 1/13/04, 2/11/04, & 5/6/04
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. The species best illustrated by Fig. 1 (claims 1-59).
- II. The species best illustrated by Fig. 5 (claims 60-68).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is deemed generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Derek J. Westberg on December 2, 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-59. Affirmation of this election must be made by applicant in replying to this Office action. Claims 60-68 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-59 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 4,804,957 to Selph et al.

With respect to claims 1, 5, 7, 11, 12, 28, 32-35, 50, and 53, Selph et al. disclose a system for monitoring and controlling utility-based consumption comprising: a reader (meter interface unit 36 shown on Fig. 2) for obtaining utility consumption data from a utility meter (utility meter 20 shown on Fig. 2); and a computer system (data collection computer 312 shown on Fig. 10) for collecting the data from the reader (see col. 15, lines 4-10) wherein the computer system computes a forecast of consumption for one or more predetermined periods of time and wherein the computer system signals for the control of

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consumption through the controlling of one or more devices that consume utility-based product based on the forecast (see col. 3, line 12 to col. 4, line 18 and col. 12, line 17 to col. 13, line 4).

As to claims 2-4 and 29-31, Selph et al. also disclose the data being electric power consumption data/natural gas consumption data/water consumption data (see col. 5, lines 40-43).

As to claims 6 and 52, Selph et al. also disclose the computer system repeatedly computes the forecast (see col. 9, lines 61-67).

As to claim 8, Selph et al. also disclose the computer system signaling for the control of one or more of the devices through the decreasing of the amount of time that one or more one of the devices run (see col. 12, lines 45-56).

As to claims 9 and 10, Selph et al. also disclose a climate control device being an air conditioning unit (see col. 2, lines 11-14).

As to claims 13-17, 26, 36-40, 47, 54, and 59, Selph et al. also disclose a user interface at the computer system wherein the user interface displays indicia related to consumption to the user (see Fig. 3; col. 2, line 59 to col. 3, line 11; col. 7, lines 1-10; and col. 9, lines 31-37).

As to claims 18, 19, 21, 42, 43, and 55, Selph et al. also disclose accessing the user interface from a location remote from the computer system for providing the user input (see col. 5, lined 22-39).

As to claims 20, 22-24, 41, 44, 45, 56, and 57, Selph et al. also disclose sending the alerts to the computer system to reduce consumption during a crisis situation (see col. 1, line 63 to col. 2, line 2; col. 3, line 35 to col. 4, line 18; and col. 13, lines 32-50).

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As to claim 25, 46, 48, 49, and 58, Selph et al. also disclose instructing the computer system to adjust the consumption of one or more devices (see col. 8, lines 3-44).

As to claims 27, Selph et al. also disclose multiple readers for reading utility consumption data from multiple meters and wherein the computer computes the forecast based on the data from multiple ones of the readers (see col. 13, lines 5-31).

As to claim 51, Selph et al. also disclose the computer system being located at the utility company (see col. 6, lines 14-41).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lyons et al. disclose a remote data acquisition and processing system.

Turino et al. disclose an automatic utility meter for collecting, calculating, storing and displaying data correlative of consumption of utility commodities such as electric power, gas, water and the like.

Jovellana discloses a self-contained automated meter reader system for monitoring a plurality of channels for gas, electricity and water utilities, having additional channels dedicated to normally closed alarm signals for monitoring the integrity of the system.

Lusignan et al. disclose a digital solid state electric power usage meter for determining power usage by a load attached to an electric power network.

Oravetz et al. disclose a PC computer monitoring the energy consumed at a

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plurality of local stations placed behind the electrical meter of the utility company for individual billing of the local users, a bidirectional communication line being used therebetween.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. W. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax number for TC 2800 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2800 receptionist whose telephone number is (571) 272-1585 or (571) 272-2800.

In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.



Carol S. W. Tsai
Patent Examiner
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12/02/04